

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FEB - 1 2010

DAVID J. MALAND, CLERK

DANNY LEWIS CONKLIN, #485746, §
vs. §
§
JERRY LYNN JORDON, §

BY
DEPUTY
CIVIL ACTION NO. 4:09CV465

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On December 22, 2009, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Plaintiff's *pro se* complaint be dismissed without prejudice to the refiling of same should he be able to demonstrate that he is either a representative of the estate or that he witnessed the accident as a bystander.

The court, having made a *de novo* review of the objections raised by Plaintiff, is of the opinion that the findings and conclusions of the Magistrate Judge are correct. The objections of Plaintiff do not establish that he is either a representative of the estate or that he witnessed the accident as a bystander and are therefore without merit as to the underlying recommendation. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court. Plaintiff's complaint is dismissed without prejudice to the refiling of same should he be able to demonstrate that he is either a representative of the estate or that he witnessed the accident as a bystander.

IT IS SO ORDERED.

SIGNED this 30th day of January, 2010.


RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE